

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
Deployment of Wireline Service Offering)
Advanced Telecommunications Capability)

CC Docket No. 98-147

Implementation of the Local Competition)
Provisions of the Telecommunication Act)
Of 1996)

CC Docket No. 96-

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REPLY OF SBC COMMUNICATIONS INC.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

SBC Communications Inc. (SBC) submits this reply to the comments and oppositions to the Petitions for Clarification and/or Reconsideration on the issue of line sharing and on other requested changes to the Commission's *Third Report and Order* in CC Docket No. 98-147 and its *Fourth Report and Order* in CC Docket No. 96-98 (*Orders*).

I. LINE SHARING OVER THE UNE-P

AT&T and MCI WORLDCOM continue to urge the Commission to "clarify" its *Orders* to require incumbent local exchange carriers (ILECs) to provide and fully support line sharing on the UNE-P.¹ As BellSouth points out, there is nothing to clarify. The Commission's *Orders* make it "unmistakenly obvious" that ILECs have no "line sharing" obligations on lines where they are not the voice provider, and the Commission could not have been clearer that "line sharing" does not apply to the UNE-P.² The ILEC is not the

¹ AT&T, p. 2-3; MCI, p. 2. The UNE-P stands for the provisioning by ILECs of a combination of unbundled network elements (UNEs) often referred to as the platform; hence the term UNE-P. The UNE-P includes a combination of the switching, loop, and transport network elements.

² BellSouth, p. 3. Paragraph 72 of the *Line Sharing Order* in this docket unequivocally states:

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voice provider on and does not share the line on the UNE-P.³ The attempts and arguments of AT&T and MCI WORLDCOM to “rewrite” the *Orders* to make line sharing applicable to the UNE-P are misplaced and unfounded.

AT&T quotes from an SBC filing on its section 271 long distance application as alleged support for AT&T's view that ILECs should be required to provide and fully support line sharing on the UNE-P.⁴ The quote states:

AT&T is free to offer both voice and data service over the UNE Platform or other UNE arrangements, whether by itself or in conjunction with its xDSL partner, I[P] Communications. The Line Sharing Order did nothing to alter those options; it merely allowed data CLECs to access the high-frequency portion of loops over which the incumbent already provides voice service.

Nothing in the quoted statement even remotely suggests that the ILECs have any support obligations or any obligations to modify the UNE-P. Nor should there be any such obligations. Nothing prevents competitive local exchange carriers (CLECs), like AT&T, from providing their own splitters, cabling, billing and care functions, so that the UNE

The record does not support extending line sharing requirements to loops that do not meet the prerequisite condition that an incumbent LEC be providing voiceband service on that loop...[I]ncumbent carriers are not required to provide line sharing to requesting carriers that are purchasing a combination of network elements known as the platform. In that circumstance, the incumbent no longer is the voice provider to the customer.

³ To the contrary, as the Commission determined in its Universal Service proceeding, when a requesting carrier obtains an unbundled [network] element, such element - if it is also a “facility” - is the requesting carrier's “own facilit[y]”...because the requesting carrier has “the exclusive use of that facility for a period of time.” *In the Matter of Federal-State Joint Board on Universal Service, Report and Order*, 12 FCC Rcd 8776, ¶ 158 (1997). *Accord: In the Matter of Application of Ameritech Michigan, Memorandum Opinion and Order*, 12 FCC Rcd 20543, ¶ 94 (1997). As such, once provisioned, the ILEC has no control over the use of the facility and it is treated as the facility of the requesting carrier. In the same vein, the voice service provided over the facility is treated as the voice service of the requesting carrier, *supra*, n. 2.

⁴ AT&T, pp. 2-3.

switch port and loop elements available to CLECs today can be utilized to accommodate CLEC/CLEC line sharing.⁵

All the quote suggests is what the Commission's current rules require. The ILECs provide the unbundled network elements comprising the platform pursuant to § 51.315 of the Commission's rules, and thereafter the CLECs have the exclusive use of that facility. Nothing in the rules states or implies that the ILECs have any further obligation with respect to the loop other than "the duty to maintain, repair, or replace the unbundled network element."⁶

In its *Orders* in this case, the Commission did not change those rules, nor did it say anything to suggest that the ILECs would have any additional obligations in regard to provisioning or modifying the unbundled elements that are already combined - and thus require no physical work to provide - as the UNE platform. What AT&T and MCI WORDLCOM are suggesting, in essence, is that the Commission require the ILECs to conduct physical work and add equipment (*i.e.*, a splitter) to the already assembled elements that comprise the UNE platform after those elements have been furnished to the

⁵Contrary to what AT&T implies, AT&T and other CLECs are today perfectly able to use unbundled loops, unbundled local switching, and shared transport to provide voice services that are packaged with a data offering on the same loop. They can do so by purchasing each of those elements and ordering two cross-connects: a cross-connect from the unbundled loop to their (or a partnering data CLEC's) collocated splitter and another cross-connect from the splitter to the SBC telephone company's switch port so that the voice service can be routed back to the SBC telephone company's switch. In contrast, when a carrier seeks to disconnect a loop from the switch and reconnect it to a splitter, it no longer seeks the UNE-P, but a new service architecture, which contains new equipment not currently installed in the network. Therefore, AT&T's contention misses the point. While it cannot use the UNE-P as configured today, it can reconfigure the elements ordered as a UNE-P to provide voice and data service over the same line by changing the SBC telephone companies' existing network configuration.

⁶ § 51.309(c)

CLEC. No such mandate has been imposed, and no such a mandate can be imposed without a rulemaking.⁷

Even more absurd is AT&T's proposal that, until the ILECs make this "new" combination of previously unassembled network elements available (some of which are not required unbundled network elements),⁸ the ILECs should be compelled to make their *xDSL services* available to any CLEC that has purchased a UNE-P and which uses it to provide voice service.⁹ This would make xDSL service itself a UNE and part of the UNE-P. Again, imposing that obligation would require a rulemaking proceeding, and a change in the Commission's current rules. Such a change - which is likely to meet strong resistance from current data CLECs - would also be fundamentally at odds with other Commission decisions requiring xDSL-based advanced services to be provided by an ILEC affiliate rather than the ILEC itself.¹⁰ Moreover, given the number of alternative

⁷ 5 U.S.C. §, 551(5). Any such mandate would also be contrary to the Eighth Circuit Court of Appeals rulings that section 251(c)(3) requires unbundled access only to an ILEC's existing network - not to a yet unbuilt superior one, and that the ILECs do not have to cater to every desire of every requesting carrier. *Iowa Utilities Board v. Federal Communications Commission*, 120 F.3d 753, 813 (1997), *rev'd in part* [on other grounds] *and aff'd in part* 525 U.S. 366, 119 S.Ct. 721, 142 L.Ed. 2d 834 (1999).

⁸ Packet switching is not a required unbundled network element, except in limited circumstances. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, CC Docket No. 96-98, FCC 99-238, ¶¶ 306-318 (rel. November 5, 1999) ("UNE Remand Order" and "Fourth FNPRM").

⁹ AT&T, p. 4.

¹⁰ *In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability, Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 13 FCC Rcd 24011, ¶13 (rel. August 7, 1998); *Applications of Ameritech and SBC Communications For Consent to Transfer of Control, Memorandum Opinion and Order*, 14 FCC Rcd 14712 (rel. October 8, 1999). In fact, pursuant to the SBC/Ameritech merger conditions, the SBC telephone companies no longer provide xDSL services in a number of the jurisdictions where they operate. Those xDSL services are now provided by an advanced services' affiliate (ASI or AADS). Thus, while in the affiliate's discretion, the services could be available for resale, they are (in most instances

advanced service providers and technologies in the marketplace today, it is impossible to imagine how xDSL service could ever be found to meet the “necessary” requirements of section 252(d) for establishing an unbundled network element, even for a limited time period. Thus, there is no alternative but to reject the AT&T and MCI WORLDCOM Petitions on this point.

IP Communications (IPC) supports AT&T's Petition and claims the need for clarification becomes even more necessary in light of SBC's Project Pronto. IPC claims there is a critical need for data local exchange carriers (DLECs) to be able to provide integrated services in a manner comparable to line sharing with ILECs, or there will not be parity.¹¹

Project Pronto does not limit the availability of competitive xDSL products. To the contrary, it expands the reach of xDSL products beyond that which would otherwise be available in the SBC public switched telephone network (PSTN) of the past, and at much faster speeds. Project Pronto also does not prevent DLECs and CLECs from providing integrated voice and data services utilizing UNEs and adding their own splitter, and IPC never explains how it does so. DLECs and CLECs can still order UNE loops and other UNEs, and under the Commission's rules can use those facilities exclusively to provide both voice and data services. Project Pronto does not affect such availability or rights.¹²

for the SBC telephone companies at least) no longer ILEC services and are not subject to the Act's unbundling requirements for ILEC network elements.

¹¹ Supplement to Comments of IPC, pp. 2-5.

¹² Project Pronto will not eliminate any offering that is available to CLECs today. Likewise, SBC has no plans for systematic removal of copper facilities that CLECs may wish to use. For a more complete discussion of the CLEC options, *see: Reply Comments of SBC Communications in Support of a Determination that SBC Incumbent LECs May*

What IPC, MCI WORLDCOM, and AT&T seek is not competitive parity. They are seeking a modification of the Commission's current rules on line sharing and the UNE-P to impose greater and legally impermissible burdens on the ILECs.¹³ Neither IPC nor AT&T shows why *they* are incapable of working together to make the necessary modifications to certain network elements (specifically, the UNE loop and switch port) that comprise the UNE-P, adding a splitter, and administering a line sharing arrangement between themselves without involving the ILECs or the SBC telephone companies. In fact, there is no technical or other reason that would prevent them from doing so.

II. SHOWING ON LOOP CONDITIONING

AT&T asks the Commission to reject Bell Atlantic's request that the ILEC not have to prove on a state-by-state basis that conditioning a "loop over 18,000 feet" will significantly degrade the existing voice service on the loop.¹⁴ While it is true that technology is extending the reach of xDSL, it does not change the fact, noted in GTE's comments, that: "[w]ell established engineering principles dictate that local exchange carriers must place load coils or repeaters on long loops in order to produce voice quality."¹⁵ Requiring separate proceedings on a state-by-state basis to validate a fact, already acknowledged by the industry, would be costly, inefficient, and counter-productive.

Own Combination Plugs/Cards and Optical Concentration Devices, CC Docket No. 98-141, pp. 12-13 (dated March 10, 2000).

¹³ *Iowa Utilities*, *supra* n. 7.

¹⁴ AT&T, p. 12.


¹⁵ GTE, p. 4.

III. CONCLUSION

The Commission should deny the Petitions for Clarification or Reconsideration filed by AT&T and MCI WORLDCOM, and should grant the Petitions filed by Bell Atlantic and BellSouth.

Respectfully submitted,

SBC COMMUNICATIONS INC.

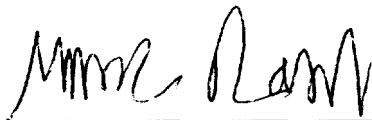
By: 

James D. Ellis
Alfred G. Richter, Jr.
Roger K. Toppins
Mark P. Royer
1401 "I" Street, N.W., 11th Floor
Washington, D.C. 20005
(202) 326-8898

Its Attorneys

CERTIFICATE OF SERVICE

I, Mark P. Royer, hereby certify that a true and correct copy of the above and foregoing comments were served on this 5th day of April, 2000, to the following individuals:


Mark P. Royer

ITS
1231 20TH STREET, NW
GROUND FLOOR
WASHINGTON DC 20036

DAVID D DIMLICH ESQ
SUPRA TELECOMMUNICATIONS & INFORMATION
SYSTEMS INC
2620 SW 27TH AVENUE
MIAMI FL 33133

LEON M KESTENBAUM
JAY C KEITHLEY
H RICHARD JUHNKE
SPRINT CORPORATION
1850 M STREET NW
11TH FLOOR
WASHINGTON DC 20036

RODNEY L JOYCE
J THOMAS NOLAN
SHOOK HARDY & BACON
600 14TH STREET NW
SUITE 800
WASHINGTON DC 20005-2004

PAT WOOD III
JUDY WALSH
BRETT A PERLMAN
PUBLIC UTILITY COMMISSION OF
TEXAS
1701 N CONGRESS AVE
PO BOX 13326
AUSTIN TX 78711-3326

STEPHEN L GOODMAN
HALPRIN TEMPLE GOODMAN & MAHER
555 12TH STREET NW
SUITE 950 NORTH TOWER
WASHINGTON DC 20004

JOHN G LAMB JR
NORTEL NETWORKS INC
2100 LAKESIDE BOULEVARD
RICHARDSON TX 75081-1599

STEVEN GOROSH
MICHAEL OLSEN
GLENN HARRIS
NORTHPOINT COMMUNICATIONS INC
222 SUTTER STREET 7TH FLOOR
SAN FRANCISCO CA 94108

RUTH MILKMAN
THE LAWLER GROUP, LLC
1909 K STREET NW
SUITE 820
WASHINGTON DC 20006

JEFFREY BLUMENFELD
VICE PRESIDENT AND GENERAL COUNSEL
RHYTHMS NETCONNECTIONS INC
6933 SOUTH REVERE PARKWAY
ENGLEWOOD CO 80112

GLENN B MANISHIN
CHRISTY C KUNIN
STEPHANIE A JOYCE
BLUMENFELD & COHEN
TECHNOLOGY LAW GROUP
1615 M STREET NW
SUITE 700
WASHINGTON DC 20036

SUSAN M MILLER
THE ALLIANCE FOR TELECOMMUNICATIONS INDUSTRY
SOLUTIONS, INC
1200 G STREET NW
SUITE 500
WASHINGTON DC 20005

MARK C ROSENBLUM
STEPHEN C GARAVITO
AT&T
ROOM 3252G1
295 NORTH MAPLE AVENUE
BASKING RIDGE NJ 07920

JONATHAN M ASKIN
THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS
SERVICES
888 17TH STREET NW
SUITE 900
WASHINGTON DC 20006

STEPHEN L EARNEST
M ROBERT SUTHERLAND
BELLSOUTH CORPORATION
SUITE 1700
1155 PEACHTREE STREET NW
ATLANTA GA 30306-3610

JOSEPH DIBELLA
LAWRENCE W KATZ
BELL ATLANTIC
1320 NORTH COURTHOUSE ROAD
8TH FLOOR
ARLINGTON VA 22201

RONALD L PLESSER
STUART R INGIS
TASHIR J LEE
PIPER & MARBURY LLP
SEVENTH FLOOR
1200 NINETEENTH STREET NW
WASHINGTON DC 20036

THOMAS M KOUTSKY
COVAD COMMUNICATIONS COMPANY
700 13TH STREET NW
SUITE 950
WASHINGTON DC 20005

BERNARD CHAO
BRAD M SONNENBERG
COVAD COMMUNICATIONS COMPANY
2330 CENTRAL EXPRESSWAY
BUILDING B
SANTA CLARA CA 05050

GAIL L POLIVY
GTE SERVICE CORPORATION
1850 M STREET NW
12TH FLOOR
WASHINGTON DC 20036

JEFFREY S LINDER
WILEY REIN & FIELDING
1776 K STREET NW
WASHINGTON DC 20006

GEORGE N BARCLAY
MICHAEL J ETTNER
GENERAL SERVICES ADMINISTRATION
1800 F STREET NW
ROOM 4002
WASHINGTON DC 20405

TERRY G MAHN
FISH & RICHARDSON PC
601 13TH STREET NW
WASHINGTON DC 20005

JONATHAN E CANIS
MICHAEL B HAZZARD
KELLEY DRYE & WARREN LLP
1200 NINETEENTH STREET NW
FIFTH FLOOR
WASHINGTON DC 20036

STEPHEN R BELL
THOMAS JONES
SOPHIE J KEEFER
WILKIE FARR & GALLAGHER
THREE LAFAYETTE CENTRE
1155 21ST STREET NW
WASHINGTON DC 20036-3384

THEODORE LASSER
DOUGLAS ZOLNICK
@LINK NETWORKS, INC
20825 SWENSON DRIVE
SUITE 150
WAUKESHA WI 53186

KECIA BONEY
RICHARD S WHITT
LISA B SMITH
1801 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20006

DR. H. GILBERT MILLER
MITRETEK SYSTEMS INC
CENTER FOR TELECOMMUNICATIONS AND ADVANCED
TECHNOLOGY
7525 COLSHIRE DRIVE
MCLEAN VA 22102

RANDALL B LOWE
JULIE A KLAMINSKI
RENEE ROLAND CRITTENDON
PIPER & MARBURY LLP
1200 NINETEENTH STREET NW
SUITE 700
WASHINGTON DC 20036

ERNEST G JOHNSON
PUBLIC UTILITY DIVISION
OKLAHOMA CORPORATION COMMISSION
PO BOX 52000-200
OKLAHOMA CITY OK 73152-2000

JOHN H HARWOOD II
WILLIAM R RICHARDSON JR
MATTHEW A BRILL
WILMER CUTLER & PICKERING
2445 M STREET NW
WASHINGTON DC 20037

ROBERT B MCKENNA
US WEST COMMUNICATIONS INC.
1020 19TH STREET NW
SUITE 700
WASHINGTON DC 20036

R GERARD SALEMME
CATHLEEN MASSEY
NEXTLINK COMMUNICATIONS INC
1730 RHODE ISLAND AVENUE NW
SUITE 1000
WASHINGTON DC 20036

LAWRENCE E SARJEANT
LINDA KENT
KEITH TOWNSEND
JOHN W HUNTER
JULIE E RONES
UNITED STATED TELEPHONE ASSOCIATION
1401 H STREET NW
SUITE 600
WASHINGTON DC 20005

COLLEEN M DALE
PRIMARY NETWORK
COMMUNICATIONS
11756 BORMAN DRIVE
SUITE 101
ST LOUIS MO 63146

MARGOT SMILEY HUMPHREY
KOTEEN & NAFTALIN LLP
COUNSEL FOR NTRA
1150 CONNECTICUT AVE NW
SUITE 1000
WASHINGTON DC 20036

L MARIE GUILLORY
JILL CANFIELD
NTCA
4121 WILSON BOULEVARD TENTH
FLOOR
ARLINGTON VA 22203

STUART POLIKOFF
STEPHEN PASTORKOVICH
OPASTCO
21 DUPONT CIRCLE NW
SUITE 700
WASHINGTON DC 20036

PETER ARTH JR
LIONEL B WILSON
GRETCHEN T DUMAS
PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA
505 VAN NESS AVE
SAN FRANCISCO CA 94102

RUTH MILKMAN
LAWLER METZGER & MILKMAN LLC
COUNSEL TO NORTHPOINT COMMUNICATIONS INC
1909 K STREET NW
SUITE 820
WASHINGTON DC 20554

JOHN F RAPOSA
GTE SERVICE CORPORATION
600 HIDDEN RIDGE HQE03J27
PO BOX 152092
IRVING TX 75015-2092

ELIZABETH H BARNES
COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
PO BOX 3265
HARRISBURG PA 17105-3265